

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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CAROTEK, INC., :
: Plaintiff/Counter-defendant :
: v. : Civil Action No. 07 Civ. 11163(NRB)(RLE)
: KOBAYASHI VENTURES, LLC, :
: Defendant/Counter-plaintiff. :
-----x

**KOBAYASHI VENTURES, LLC'S NOTICE OF MOTION
TO VOLUNTARILY DISMISS WITHOUT PREJUDICE
COUNTS I AND II OF ITS COUNTERCLAIM**

COUNSEL:

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Alexia Kent Bourgerie, dated June 13, 2008, the Memorandum of Law, dated June 13, 2008, the proposed Order, and all pleadings and proceedings heretofore had herein, Defendant/Counter-plaintiff, Kobayashi Ventures, LLC ("Kobayashi"), by its attorneys, Jeffrey M. Schwaber, Alexia Kent Bourgerie, and Stein, Sperling, Bennett, De Jong, Driscoll & Greenfeig, P.C., will move this Court, before the Honorable Naomi R. Buchwald, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time set by the Court, pursuant to Federal Rule of Civil Procedure 41, for an order allowing Counter-plaintiff to

STEIN, SPERLING, BENNETT,
DE JONG, DRISCOLL &
GREENFEIG, P.C.

ATTORNEYS AT LAW
25 WEST MIDDLE LANE
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TELEPHONE 301/340-2020

voluntarily dismiss Counts I and II of the Counter-claim without prejudice.

Dated: June 13, 2008

STEIN, SPERLING, BENNETT, DE JONG,
DRISCOLL & GREENFEIG, P.C.

By:

/s/

Jeffrey M. Schwaber (NY Bar #4529699)
Alexia Kent Bourgerie
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2008, I will electronically file the foregoing with the Clerk of the Court using the ECF system, which will then send a notification of such filing (NEF) to the following:

Raymond R. Castello
Greg Madera
John Garretson
Fish & Richardson P.C.
153 East 53rd Street, 52nd Floor
New York, NY 10022

W. Thad Adams, III
Adams Intellectual Property Law, P.A.
201 South College Street
Suite 2350 Charlotte Plaza
Charlotte, NC 28244

By: _____/s/

Jeffrey M. Schwaber (NY Bar #4529699)
Alexia Kent Bourgerie, *pro hac admission*
Attorneys for Defendant/Counter-plaintiff
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